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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/648,656

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Thomas T. Buzzell

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10/20/2006

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EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/648,656

Applicant(s)

BUZZELL ET AL.

Examiner

Matthew S. Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 29-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 33-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-11, 15-18, 22-25 and 33-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allsop (U.S. Patent No. 5,970,472) in view of Alnwick (U.S. Patent No. 6,922,676).

Referring to claim 1. Allsop discloses an e-commerce based method for requesting information and purchasing products from a dealer through a manufacturer, the method comprising:

- Sending a request for detailed dealer information to a manufacturer server system using a client system (*Allsop, column 8, lines 32-49: "Alternatively, the user may be required to initiate a dealer search to locate the nearest WLD (Web Linked Dealer) for that manufacturer. For example, a dealer search may be performed by a software module on the manufacture's Web site that receives the user's zip code as input and then queries a WLD database for WLDs located within a given radius of that zip code's corresponding geographic area."*);
- Displaying real-time detailed dealer information on said client system based on said request (*Allsop, column 8, lines 32-49: In one embodiment, the*

manufacturer's computer system automatically accesses an inventory database to determine if a purchase product is currently in a particular dealer's inventory.”);

- Receiving said real-time detailed dealer information from said manufacturer server system (*Allsop, column 8, lines 32-49: The database can be accessed before the dealer has been selected by the user, such that the user is not allowed to select any dealer which does not have the product in stock.”); and*
- Accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system (*Allsop, column 8, lines 32-49: In one embodiment, the manufacturer's computer system automatically accesses an inventory database to determine if a purchase product is currently in a particular dealer's inventory.”).*

Allsop does not expressly disclose accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system via a middleware application system. Alnwick discloses accessing said real-time detailed dealer information with said manufacturer server system from a remote dealer server system via a middleware application system (*Alnwick: column 14, line 63 to column 15, line 24*). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Allsop to have included the limitations of Alnwick as discussed above in order to allow customers to almost instantaneously determine available inventory, correlate to a manufacturer part number, and rapidly place an order (*Alnwick: column 2, lines 17-24*).

Allsop in view of Alnwick do not expressly disclose a manufacturing server system hosting a manufacturer's web site and a plurality of dealer web sites. Allsop does disclose a method wherein a dealer is authorized to sell products of a given manufacturer. The dealer has an on-line shopping web site that is accessible from the manufacturer's web site (Allsop: column 6, lines 31-44), but the web sites are not hosted on the same server.

The Examiner notes, shifting the web sites to be hosted on separate servers does not modify the operation of Allsop's method and to have modified the method of Allsop to have included various web site hosting configurations would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Allsop. Such modification would not have otherwise affected the method of Allsop and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Allsop. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps disclosed by Allsop. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Referring to claims 2-3. Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (*Fed.*

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Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop, The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Referring to claim 4. Allsop further discloses a method wherein said real-time detailed dealer information is selected from the group consisting of dealer-level inventory, pricing, and sales information (*Allsop: column 10, lines 4-15*).

Referring to claim 8. Allsop discloses an e-commerce based system for requesting information and purchasing products from a dealer through a manufacturer, the system comprising:

- A client system (*Allsop: Fig. 5, "40"*); and
- A manufacturer server (*Allsop: Fig. 5, "50"*) in communication with said client system (*Allsop: Fig. 5, "40"*).

Allsop does not expressly disclose said manufacturer server system having a middleware application system; and a remote dealer server system in communication with said middleware application system to provide real-time detailed dealer information

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to said manufacturer server system via said middleware application system with said manufacturer server system able to send said real-time detailed dealer information to said client system for displaying. Alnwick discloses said manufacturer server system having a middleware application system (*Alnwick: column 14, line 63 to column 15, line 24*); and a remote dealer server system in communication with said middleware application system to provide real-time detailed dealer information to said manufacturer server system via said middleware application system (*Alnwick: column 14, line 63 to column 15, line 24*) with said manufacturer server system **able to** send said real-time detailed dealer information to said client system for displaying.

The Examiner notes, the term “able to” in the above limitation is a recitation of the intended use of the claimed invention and does not result in a structural difference between the claimed invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Allsop in view of Alnwick do not expressly disclose a manufacturing server system hosting a manufacturer's web site and a plurality of dealer web sites. Allsop does disclose a method wherein a dealer is authorized to sell products of a given manufacturer. The dealer has an on-line shopping web site that is accessible from the manufacturer's web site (Allsop: column 6, lines 31-44), but the web sites are not hosted on the same server.

The Examiner notes, shifting the web sites to be hosted on separate servers does not modify the operation of Allsop's method and to have modified the method of Allsop to have included various web site hosting configurations would have been

obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Allsop. Such modification would not have otherwise affected the method of Allsop and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Allsop. Additionally, applicant has not persuasively demonstrated the criticality of providing this step versus the steps disclosed by Allsop. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Referring to claims 9-10. Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop, The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Referring to claim 11. Claim 11 is rejected under the same rationale as set forth above in claims 1 and 8.

Referring to claim 15. Claim 15 is rejected under the same rationale as set forth above in claims 1 and 8. Allsop further teaches creating and sending an item list using a client system (Allsop: column 2, lines 53-61).

Referring to claims 16-17. Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop, The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Referring to claim 18. Claim 18 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 22. Claim 22 is rejected under the same rationale as set forth above in claims 1, 8 and 15.

Referring to claims 23-24. Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop, The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Referring to claim 25. Claim 25 is rejected under the same rationale as set forth above in claim 4.

Referring to claims 33. Allsop does not expressly disclose the use of a quote number or a confirmation number. Data identifying type, characteristics, condition, etc. is not functionally related to the substrate of the method and system. Thus, this

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descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data (purchase number, purchase request, quote number, quote request, etc.) in the fields of the method and system as shown in Allsop, The data form does not functionally relate to the substrate of the method and system and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Referring to claim 34. Claim 34 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 35. Claim 35 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 36. Claim 36 is rejected under the same rationale as set forth above in claim 1.

Referring to claims 37-40. Claims 37-40 are rejected under the same rationale as set forth above in claims 1, 4, 8, 11, 15, 18, 22, 25 and 34-36.

Claims 5-7, 12-14, 19-21, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allsop (U.S. Patent No. 5,970,472) in view of Alnwick (U.S. Patent No. 6,922,676) in further view of "Web Gateway Sites Keep Growing" (hereinafter, "Web")

Referring to claims 5-7, 12-14, 19-21 and 26-28. Allsop in view of Alnwick discloses a method and system according to claims 1, 8, 15 and 22 as indicated supra. Allsop in view of Alnwick does not expressly disclose:

- Displaying consumer personalized data received from said manufacturer server system on said client system;
- Wherein said consumer personalized data information is selected from the group consisting of weather, investments, stock portfolio, news and links; and
- Wherein said news is selected from the group consisting of local, national, international and industrial.

"Web" discloses:

- Displaying consumer personalized data received from said manufacturer server system on said client system (Web: paragraph 13);
- Wherein said consumer personalized data information is selected from the group consisting of weather, investments, stock portfolio, news and links (Web: paragraph 14); and
- Wherein said news is selected from the group consisting of local, national, international and industrial (Web: paragraph 13-16).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system and method of Allsop in view of Alnwick to have included the limitations of "Web" as discussed above in order to have provided a technique by which manufacturers have greater control over the on-line sales of their products (Allsop: column 1, lines 57-64).

Response to Arguments

Applicant's arguments with respect to the rejected claims have been considered but are not persuasive.

The Applicant argues that Alnwick does not qualify as prior art.

The Examiner notes, Alnwick has a filing date of December 11, 2000, and claims priority to Provisional Application No. 60/173,823 filed on December 30, 1999, three months prior to the priority date of the instant invention.

The Examiner further notes, Alnwick was relied upon merely to show the use of a middleware application system (Alnwick: column 14, line 63 to column 15, line 24). A middleware application system can be defined as software that mediates between an application program and a network. Middleware application systems typically manage interactions between disparate applications across computing platforms.

By definition, "Ordering Module **24**" of Fig. 2 (Provisional Application No. 60/173,823) would constitute a middleware application system. "Ordering Module **24**" mediates between an inventory system (manufacturing server system) and a dealer hosted "Quick Order Webpage **8**".

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'MSG', with a long horizontal flourish extending to the right.

MSG
Primary Examiner
October 14, 2006